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14-533-02

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LCG 102-127
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IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE

36639

STATE OF TENNESSEE,
Plaintiff,

vs.

No. 79-490-II

JOHN P. SAAD & SONS, INC.,
JOHN P. SAAD, JR., RICHARD
S. SAAD, ELLIS J. SAAD,
Defendants.

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TEMPORARY INJUNCTION

It appearing to the Court from the evidence presented at hearings on March 26 and 27, April 10, and June 19, 1979, the statements of counsel, and the entire record in this cause that the defendants' activities will cause immediate and irreparable injury to the public health and to the environment if they are not enjoined,

It is hereby ORDERED that the defendants shall accomplish the tasks listed below in accordance with the following schedule:

1. Excavate and stockpile the contaminated soil on the Trousdale site within five working days of the date of this order.
2. Under the supervision of the Department of Public Health, collect a composite sample of the contaminated soil on each property, and submit these samples to a laboratory approved by the Department, with instructions to carry out tests in accordance with the April 9 letter from the Department, and to transmit the results directly to the Department. The samples shall be collected and submitted to the laboratory within five days.
3. Remove and dispose of the contaminated soil on the Rutherford County and Trousdale properties within five working days after all necessary approvals are obtained, if such materials are to be disposed of within the State of Tennessee, or within ten working days after all necessary

approvals are obtained, if such materials are to be disposed of out-of-state.

4. Begin mixing non-chlorinated solvents with the liquid materials from the ponds and underground tanks on the Trousdale site and the liquids held in barrels on the Rutherford County site, in accordance with instructions from M & M Chemical Company and the State of Alabama, as soon as practicable.

5. Begin to make shipments to M & M Chemical Company as soon as one truckload has been mixed.

6. Complete mixing and delivery of all liquid materials to M & M Chemical Company within thirty days of the date of initiating mixing.

7. Place the residue from the mixing process in barrels and hold it for sampling and disposal as required by the Department.

8. Complete the dike around the Trousdale site within thirty days of the date of this order.

It is further ORDERED that the defendants are prohibited from carrying out any of the following activities:

1. Collecting, transporting, storing, processing, disposing of any substances or carrying out any activities likely to cause pollution of the waters of the State, without the express and written approval of the Department of Public Health. However, such approval will not be necessary when the defendants pick up materials from a company or companies and deliver the same materials in the same vehicle to M & M Chemical Company or Holston Fuel Company, without processing or removing the materials from the vehicle used. In addition, no further approval will be required for mixing materials for shipment to M & M Chemical Company pursuant to the requirements of paragraphs 4 and 6 above regarding disposal of liquid wastes.

Removing or disposing of materials located at the Smyrna Airport and spraying or otherwise disposing of materials on roads are expressly enjoined except with the express and written approval of the plaintiff.

2. Moving or removing earth, or modifying or installing any processing or storage equipment, on the Trousdale and Rutherford County properties owned by the defendants, without the express and written approval of the Department of Public Health.

3. Removing or destroying any business records or documents, or any personal records or documents pertaining to the business operations of John P. Saad & Sons, Inc. (The term "records or documents" means any and all tangible things and documents, whether hand-written, typed, printed or visually reproduced, including but not limited to letters, cables, wires, memoranda, inter-office communications, reports, notes, minutes, recordings, drawings, blueprints, sketches, charts, photographs, contracts, agreements, legal instruments, vouchers, ledgers, bills, orders, books, records, invoices, checks, receipts, files, applications for permits, permits, and payroll records).

4. Preventing or in any way hindering the plaintiff's duly authorized agents from entering the defendants' properties, conducting inspections, and taking samples.

5. Harassing or in any way threatening persons who have information about the defendants' business activities.

6. Selling, leasing, or otherwise disposing of the defendants' properties on Trousdale Drive and in Rutherford County.

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ENTER this _____ day of _____, 1979, at _____

CHANCELLOR

APPROVED FOR ENTRY:

James Robertson
~~LEE BROCKENBIDGE~~
Assistant Attorney General
450 James Robertson Parkway
Nashville, Tennessee 37219
(615) 741-2865

Copy to: Jude Lenahan
Gary Blackburn
6/21/79

A F F I D A V I T

Comes now CLIFF RAKOWSKI-BOLE, being first duly sworn, and says:

I.

I am employed by the Tennessee Department of Public Health, Division of Water Quality Control, as a Geologist, a position which I have held for four and one-half years. My education consists of a B.S. in Chemistry from Mount Union College, and an M.S. in Geology from the Ohio State University.

II.

On March 2, 1979, in the company of Joseph Rossman, I assisted in an inspection of the Trousdale Drive (Davidson County, Tennessee) operation of John P. Saad and Sons, Inc. and their property along Silver Springs Road in Rutherford County, Tennessee.

III.

With respect to the Trousdale Drive site, it is located on the phosphatic, Bigby-Cannon Limestone formation. There are several large sinkholes in the vicinity of this area. In 1963 a phosphate mine was operated less than one-fourth mile east of the site. Reportedly, solution channels were present in the limestone extending up to fifty feet below the surface, indicating ground water movement in the area. In

addition, it appears that a sinkhole was present on or adjacent to the Saad property and has been filled in sometime in the past. Based upon my understanding of the geology of the area, it is my opinion that liquid materials which are deposited on or into the ground at the site probably will seep down through crevices into the solution channels in the limestone and thus into the ground water itself. On the occasion of my visit I observed waste materials flowing into the ground itself, indicating that the ground has a high degree of permeability.

III.

With respect to the Rutherford County site, it is located on the Ridley Limestone formation. There are several large sinkholes in this area, as well as solution channels. This area is similar in characteristics to the other site. On the day of our visit to this site I personally observed several pools of an oily substance which appeared to have been dumped recently. This substance was in the surface solution channels and appeared to have flowed into one nearby sinkhole. Based on my observations and understanding of the geology of this area, it is my opinion that this substance will inevitably seep down through sinkholes and solution channels, which in all probability will result in ground water pollution.

AND FURTHER AFFIANT SAITH NOT.

Cliff Rakowski Bole
CLIFF RAKOWSKI-BOLE

Sworn to and subscribed before me
this 19th day of March, 1979

[Signature]
NOTARY PUBLIC

My Commission Expires: 8/26/80

company these tanks were never pumped out. On several occasions, particularly when the operation was being observed, I was told to wait until after dark to dump the materials.

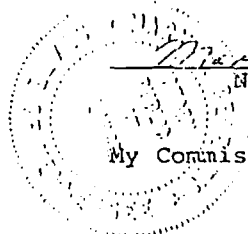
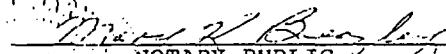
V.

I have received threats upon my life from John P. Saad, Jr. seeking to prevent my disclosure of information about Saad operations.

AND FURTHER AFFIANT SAITH NOT.


KENNETH CANNON

Sworn to and subscribed before me
this 19th day of March, 1979.



NOTARY PUBLIC
My Commission Expires: 9/26/80